

REMARKS

Claims 1-34 are currently pending. By this Amendment, Applicants have amended claim 24 and have added claims 35-38. Applicants respectfully submit no new matter was added by these amendments. Accordingly, claims 1-38 are at issue.

The Examiner has rejected claims 1-7, 10-21 and 29-32 under 35 U.S.C. §102(e) as being anticipated by Jammes. Applicants respectfully traverse this rejection.

Claim 1 is directed to a system having a Modbus device with an embedded application program connected to fieldbus coupler via a communicated bus. Claim 1 also requires a network having a network node being operably connected to the fieldbus coupler. Additionally, the system of claim 1 further requires “a protocol utilized by the automation application to access the network node.” The system of claim 1 allows a Modbus device to control devices on a separate network utilizing a different protocol.

Jammes does not disclose the system of claim 1. Jammes is directed to a communication system for communication within a control system. (See e.g., Jammes, [0007]). The focus of Jammes is to provide a system which provides a real time distributed data base solution. Contrary to the Examiner’s position, Jammes does not disclose a Modbus device having an embedded automation application at [0023-0024], [0006] as maintained by the Examiner. (See Jammes, [0023-0024], [0006]; and Detailed Action, p. 2). Jammes also does not disclose a fieldbus coupler operably connected to the automation application via a communication bus at [0024], [0006], or a network including a node having a table for holding data being operably connected to a fieldbus coupler at [0056] as further maintained by the Examiner. (See Jammes, [0024], [0056], [0006]; and Detailed Action, p. 2).

Accordingly, because Jammes fails to disclose each of the limitations of claim 1, Applicants respectfully submit claim 1 is not anticipated by Jammes and is patentable over Jammes. See *RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984) (Anticipation is established only when a single prior art reference discloses each and every element of a claimed invention.).

Claims 2-7 depend on claim 1, either directly or indirectly, and include each of its limitations. Accordingly, Applicants respectfully submit claims 2-7 are also patentable over Jammes.

For the reasons given above with respect to claim 1, Applicants respectfully submit claim 10 is also not anticipated by Jammes and is patentable over James. Claims 11-15 depend on claim 10, either directly or indirectly, and include each of its limitations. Accordingly, Applicants respectfully submit claims 11-15 are also patentable over Jammes.

Claim 16 is directed to a Modbus communication protocol that includes “a Modbus function code encapsulated between the header and the trailer, wherein the automation application transmits a network message embedded within the Modbus function code to the network device table.”

Contrary to the Examiner’s position, Jammes does not disclose any of these limitations at [0035-0040]. (See Jammes [0035-0040]; Detailed Action, p. 6). Accordingly, Applicants respectfully submit claim 16 is not anticipated by Jammes and is patentable over Jammes.

Claims 17-21 depend on claim 16, either directly or indirectly, and include each of its limitations. Accordingly, Applicants respectfully submit claims 17-21 are also patentable over Jammes.

Claim 29 is directed to a medium providing a protocol comprising “a first function code having a read/write bit, the first function code being responsive to the read/write bit wherein the read/write function code reads or writes a table of a network device.”

Again, contrary to the Examiner’s position, these limitations are not disclosed at [0035-0040] or [0066]. (See Jammes, [0035-0040], [0066]; Detailed Action, p. 3). Accordingly, Applicants respectfully submit claim 29 is not anticipated by Jammes and is patentable over Jammes. Claims 30-32 depend on claim 29, either directly or indirectly, and include each of its limitations. Thus, Applicants respectfully submit claims 30-32 are also patentable over Jammes.

The Examiner has rejected claims 24-26 under 35 U.S.C. §102(e) as being anticipated by Dube’ et al. Applicants respectfully traverse this rejection.

Claim 24, as amended herein, is directed to a method of transmitting a network message embedded in a Modbus function code through a fieldbus coupler to a node in a first network (the addition of the words “first” and “second” in the claim was for clarification purposes only).

Dube’ et al. does not disclose the limitations of claim 24. Dube’ et al. does not disclose a fieldbus coupler for communication between the Modbus network and the first network. Accordingly, Applicants respectfully submit claim 24, as amended herein, is not anticipated by Dube’ et al. and is patentable thereover. Claims 25-26 depend on claim 24, either directly or indirectly, and include each of its limitations. Thus, Applicants respectfully submit claims 25-26 are also patentable over Dube’ et al.

The Examiner has rejected claims 8-9, 22-23, 27-28 and 33-34 under 35 U.S.C. §103(a) as being unpatentable over Jammes in view of Stutz. Applicants respectfully traverse this rejection.

According to 35 U.S.C. §103(c),

Subject matter developed by another person, which qualifies as prior art under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

As indicated by the Examiner in the Office Action of June 30, 2004, Jammes is cited as qualifying as prior art under 35 U.S.C. §102(e). (See Detailed Action, p. 2). However, both Jammes and the present application were owned by Schneider Automation, Inc. or subject to an obligation to assign to Schneider Automation, Inc. at the time of the present invention, and are currently still owned by Schneider Automation, Inc. The Assignment of Jammes is recorded at Reel 012276, Frame 0357, and the Assignment of the present application is at Reel 012285, Frame 0320. Copies of the Assignments and Notices of Recordation for both Jammes and the present application are enclosed with this Response.

Accordingly, the primary reference relied upon by the Examiner cannot be used to preclude the patentability of claims 8-9, 22-23, 27-28 and 33-34. Applicants, therefore, respectfully submit claims 8-9, 22-23, 27-28 and 33-34 are in condition for allowance.

Additionally, with respect to claims 27 and 28, these claims depend indirectly on claim 24 and include each of its limitations. As set forth above, Applicants respectfully submit claim 24 is patentable. Moreover, Jammes did not form a basis of rejection for claim 24.

Applicants respectfully submit new claims 35-38 are also in condition for allowance and do not require a new search.

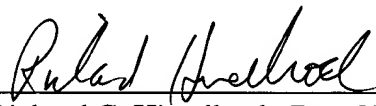
Conclusion

In light of the foregoing Amendments and Remarks, Applicants respectfully submit pending claims 1-38 are in condition for allowance. Accordingly, Applicants respectfully request reconsideration and allowance of claims 1-34, and consideration and allowance of claims 35-38. The Examiner is invited to contact the undersigned at the number below if there are any questions concerning this Response.

The Commissioner is authorized to debit or credit Deposit Account No. 23-0280 for any payment **deficiencies or overpayments** associated with this matter.

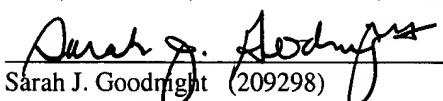
Respectfully submitted,

Dated: September 29, 2004

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on September 29, 2004.


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